REMARKS

Claims 1-10 remain in the application and are presented for examination and reconsideration. Claims 12-20 have been withdrawn from consideration. Claim 1 has been amended to more precisely define the claimed invention. Support for the amendment of Claim 1 is found in the originally submitted Claims 4 and 8, and at page 56, line 11, of the specification as filed, and elsewhere in the specification. Claim 11 has been cancelled.

The specification, at page 53, lines 18-19 has been amended to delete the sentence, "The % figure are reported as a % total carbohydrate material in the sample." All of the information in the paragraph is correct except for the particular sentence. Further, the table of data, following the paragraph, regarding cellulose and hemicellulose analysis is correct. The sentence removed by the present amendment does not accurately reflect the results reported in the table of data.

ELECTION / RESTRICTION

Applicants hereby affirm the election without traverse of Group 1, Claims 1-11, in Paper No. 7.

OBJECTION TO DRAWING

The Examiner has objected to the color photographs submitted with the application. Applicants request that the photographs and drawings submitted in color be retained as black and white only. Therefore, Applicants request that the objection to the drawings and photographs be withdrawn.

REJECTION UNDER 35 U.S.C. 112

The Examiner has rejected Claim 11, under 35 U.S.C. 112, second paragraph, as being indefinite, in use of the words, "a bloomed surface." Claim 11 has been hereby cancelled, and, accordingly, this rejection is now moot.

REJECTIONS UNDER 35 U.S.C. 102

U.S. Patent No. 4,181,747

The Examiner has rejected Claims 1-9 under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent No. 4,181,747 to Kickle et al. (herein the '747 patent). Applicants respectfully traverse this rejection for the following reasons. The Examiner has assumed for various reasons that the fiber products of Claims 1-9 are identical with the products of the '747 patent. There is no disclosure in the '747 patent regarding fiber products having the characteristics required by the claims of the present application.

Applicants have repeated Example II of the '747 patent in order to establish that the products of the '747 patent are not encompassed by the claims of the Applicants' invention. Enclosed herewith is a Declaration under 37 C.F.R. 1.132 prepared by Dr. Satyavolu, a co-inventer of the present application. As shown in the Declaration, the product of Example II of the '747 patent has a cellulose content of 41.72%. The products of the claims of Applicants' invention must have at least 50% cellulose. Thus, the products of the '747 patent are not encompassed by the presently claimed invention, and the claimed invention is not anticipated by the '747 patent. Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claims 1-9, under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent No. 4,181,747.

U.S. Patent No. 5,023,103

The Examiner has rejected Claims 1, and 7-9, under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,023,103 to Ramaswamy (herein the '103 patent). Applicants respectfully traverse this rejection for the following reasons.

The Examiner is aware that the '103 patent neither discloses nor suggests fibers that are characterized by having the properties of the fibers claimed by Applicants. This is evident from the Examiner's statement of the process as described in the '103 patent.

In this respect, however, Applicants disagree with the Examiner's representation of the disclosure of the process of the '103 patent. In particular, the Examiner has stated that the '103 patent describes a process for treating oat hulls with an acid to produce a dietary product, and makes reference to the Abstract and column 5, lines 40-44 of the '103 patent.

To the contrary, the '103 patent, in the Abstract, clearly states that, "the dietary fiber is formed by subjecting ground oat hulls to an alkaline digestion at elevated temperatures and pressures." There is no concept of mention of using any acid to form the dietary fiber from the oat hulls.

Applicants do agree with the Examiner's statement regarding the disclosure at column 5, lines 40-44, of the '103 patent. It is stated that the bleached fibers are neutralized with an acid. However, as described and claimed the dietary fiber is produced without any acid treatment involved in the process. Indeed none of the 8 claims of the '103 patent mentions the presence of an acid. As stated the acid mentioned in the '103 patent is used solely for the purpose of neutralizing a dietary fiber that has been bleached. Accordingly, Applicants contend that there is no reasonable basis provided by the process of the '103 patent for one to conclude that the products produced by the process of the '103 patent would be encompassed by the claims of the present invention. Therefore, the Examiner is respectfully requested to withdraw the rejection of Claims 1, and 7-9, under 35 U.S.C.102 (b) as being anticipated by U.S. Patent No. 5,023,103.

U.S. Patent No. 6,251,221

The Examiner has rejected Claim 1, under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,251,221 to Burkart (herein the '221 patent). The Applicants respectfully traverse this rejection for the following reasons.

The Examiner has indicated that the '221 patent discloses that cotton linters are treated with an acid, in a process for preparing cellulose.

As a result of the present amendment, Claim 1 encompasses only fiber products that have a total hemicellulose content of at least 5%. This is a significantly different product from the product produced in the '221 patent. It is well known that cotton linters have no hemicellulose content. Thus, there is no reason to assume that an acid treated cotton linter would have a hemicellulose content. Therefore, Applicants contend that the products of the '221 patent are not encompassed by the claims of the present application. Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claim 1, under 35 U.S.C. 102(e), as being anticipated by U.S. Patent No. 6,251,221.

U.S. Patent No. 6,110,323

The Examiner has rejected Claims 1-10, under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,110,323 to Marsland (herein the '323 patent). Applicants respectfully traverse this rejection for the following reasons.

The Examiner has stated that the '323 patent discloses treating agricultural waste that includes oat hulls, corn and the like by acid hydrolyzing followed by delignification, and directs

attention to column 2, line 50 through column 3, line 10, of the '323 patent. From this, the Examiner concluded that the products of the '323 patent would be encompassed by the claims of Applicants' present application.

By the present amendment, Applicants have hereby specified that the only products included within the claims of the present application are fiber products that have at least 5% hemicellulose. Thus, the products of the '323 patent are significantly different from the fiber products of Applicants' claimed products. This is readily apparent from the description provided in the '323 patent of the products produced. In particular, attention is directed to column 2, line 4, of the '323 patent where it is stated clearly that the acid hydrolysis step of the process for treating agricultural waste, "dissolves the hemicellulose," of the agricultural waste. Further, at column 2, lines 13-17, of the '323 patent, it is stated that the solid residue product resulting from the acid hydrolysis step contains primarily lignon and cellulose. There is no mention of hemicellulose content in the solid residue product. The solid residue product is then delignified, with the remaining solids having a crude fiber and total dietary fiber content. Applicants contend that one of ordinary skill in the art would not regard this statement as a disclosure of a fiber product having any content of hemicellulose, let alone a fiber product having at least 5% hemicellulose.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of Claims 1-10, under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,110,323.

REJECTION UNDER 35 U.S.C. 103 (a)

The Examiner has rejected Claim 10, under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,181,747 to Kickle, et al. (herein the '747 patent) in view of the U.S. Patent No. 5,023,130 to Ramaswamy (herein the '103 patent). Applicants respectfully traverse this rejection for the following reasons.

As mentioned herein, the fiber product of Claim 1, upon which Claim 10 is dependent, is not described in the '747 patent. This has been established by the Declaration of Dr. Satyavolu under 37 C.F.R. 1.132 enclosed herewith. Therefore, combining the teaching of the '103 patent with that of the '747 patent still fails to obtain the fiber products encompassed by Applicants' claimed invention. The dependent Claim 10 incorporates all the requirements of the Claim 1 from which it depends, and, therefore, Claim 10 is not rendered obvious by the combination of the disclosures of the '747 patent and the '103 patent.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of Claim 10, under 35 U.S.C. 103 (a), over U.S. Patent No. 4,181,747 in view of U.S. Patent No. 5,023,103.

CONCLUSION

Applicants believe the application is in condition for allowance. Accordingly, in view of the foregoing amendments, remarks, and the enclosed Declaration under 37 C.F.R. 1.132, the Examiner is respectfully requested to withdraw the rejections of Claims 1-10. Applicants submit that Claims 1-10 are patentable, and respectfully request the Examiner to pass the application to issue.

Respectfully submitted,

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